

Government of Jammu and Kashmir
Home Department
Civil Secretariat, Jammu/Srinagar

Subject: Order dated 02.08.2023, passed by the Hon'ble Court in WP(C) No.1964/2023 titled *M/s Hem Raj Arms Dealers vs. UT of J&K and Ors*-Consideration thereof -reg.

Government Order No. : 564 – Home of 2023
Dated: 22 .11.2023

Whereas, the petitioner namely, Hem Raj filed a writ petition in the Hon'ble High Court of J&K & Ladakh at Jammu, which came to be registered as WP(C) No.1964/2023 titled *M/s Hem Raj Arms Delaers vs. UT of J&K and others*, inter-alia, praying therein for the following reliefs:

- i. Issue Writ/order/direction in the nature of Mandamus commanding the official respondents, to grant license on Form VIII and Form IX in favour of the petitioner;
- ii. Issue writ/order/direction in the nature of mandamus restraining the respondents from interfering into the peaceful running of business of the petitioner;
- iii. Issue any such order, command, direction to the extent that the effect of circular No. 01-Home of 2023 dated 10.04.2023 and order No. 61-67/ARMS/DMJ/23 dated 12.07.2023 are not applicable viz-a-viz the license of the petitioner;
- iv. With the further directions to respondent No. 1 to act upon the letter No. 262/DMJ/21 dated 20.09.2021 and in furtherance to the letter include the name of Chandan Kumar and Anil Kumar (Both sons of petitioner) in the above mentioned issue.

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- v. Or any other order/direction which this Hon'ble Court deems appropriate may kindly be issued in favor of the petitioner and against the respondents.

2. **Whereas**, the Hon'ble High Court was pleased to disposed of the writ petition *ibid.* vide its order dated 02.08.2023, with the following directions:

“8. In view of the aforesaid, this petition is disposed of at this stage itself with a direction to the respondents to consider the claim of the petitioner with respect to the fact that the printed licence has not been issued despite the licence already having been granted in favour of the petitioner till 31.12.2023 and shall pass speaking order to that extent, within a period of two weeks from the date of a copy of this order alongwith complete paper book is served upon the respondents.

9. It is made clear that in case the respondents have failed to consider the claim of the petitioner within the stipulated time period, the circular No. 01-Home of 2023 dated 10.04.2023 shall not come in the way of the petitioner for operating his business.”

3. **Whereas**, as per the records, the order *ibid* was received in the Home Department, UT of J&K and upon examination of the matter, with reference to the extant legal provisions, the following position emerged:

- i. in terms of the relevant provisions of the Arms Act, 1959 and the Arms Rules, 2016, any person involved in the business of manufacturing, obtaining, procuring, selling, transferring, converting, repairing, testing, proofing, or possessing firearms, ammunition or other arms specified under the rules must hold a valid license issued by the appropriate licensing authority. The Arms Rules, 2016, provides that the license for Arms and Ammunition Dealer shall be issued by the Licensing Authority in Form VIII, in terms of Rule 73 of the *ibid* Rules;

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- ii. in order to obtain Arms and Ammunition Dealer License, the Arms Rules, 2016, prescribes the following procedure and formalities :
 - a. an applicant is required to submit an application in Form A-8 accompanied by the required documents, as prescribed in the Arms Rules, 2016;
 - b. a written declaration along with self-certified copies of drawings stating therein that the applicant has facilities available of a strong room for the safe custody of the firearms and ammunition;
 - c. a written undertaking with specific reference to the steps taken in connection with the safe custody of the firearms and ammunition including provision for access control, close circuit television system, security guards, fire-fighting devices, etc.;
 - d. verification forms containing the name and address of every person authorized to trade on behalf of the applicant at the premises, who must possess the requisite training for safe handling of firearms.

4. Whereas, the above rule position makes it mandatory that the intending prospective licensees, including the old licensees, who were issued the licenses under the Arms Rules, 1962 and had to be issued a fresh licence under the Arms Rules, 2016 were/are required to submit their applications on the prescribed form alongwith the requisite formalities. Accordingly, detailed guidelines were issued by the Home Department, vide Circular No. 01-Home of 2023 dated 10.04.2023, for obtaining Arms and Ammunition Dealers' License under ibid Rules. In line with the provisions under the Arms Rules, 2016, the District Magistrates were also instructed not to allow any Arms and Ammunition Dealer to carry on any trade/transaction in the absence of a valid Arms License in Form-VIII; and

5. Whereas, after notification of the Arms Rules, 2016, it was mandatory for the Licensing Authority to generate UIN of the licenses and as per the records, the UIN in respect of the petitioner was also generated. However, as per the available

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details, the petitioner had failed to apply on the prescribed format before the Licensing Authority through the District Magistrate, Jammu within the stipulated time and consequently, the Arms and Ammunition Dealer's License in favour of the petitioner, on Form VIII as per Arms Rules, 2016 has not been issued; and

6. **Whereas**, in light of the order of the Hon'ble High Court dated 02.08.2023, the District Magistrate, Jammu was again requested to submit a comprehensive proposal for grant of Arms and Ammunition Dealer's License in favour of the petitioner; and

7. **Whereas**, the District Magistrate, Jammu vide his communication No. 860- 61/ ARMS/ DMJ/23/II dated 27.09.2023, requested the petitioner to apply for grant of Arms and Ammunition Dealer's License in Form-A8 alongwith all the requisite documents as mandated under Rule 73 of the Arms Rules, 2016; and

8. **Whereas**, subsequent to the above, the District Magistrate, Jammu vide his letter dated 02.10.2023 informed the Home Department that the petitioner has not applied on the prescribed format as provided under the Arms Rules, 2016 for grant of Arms and Ammunition Dealer's License. He further informed that the case of the petitioner shall be recommended to the Licensing Authority once he applies under the extant Rules on the prescribed application form alongwith the requisite documents; and

9. **Whereas**, the decision to grant Arms and Ammunition Dealer's License in favour of the petitioner cannot be taken by the Licensing Authority on account of non submission of the requisite application form by the petitioner alongwith the requisite formalities, as provided under the Arms Rules, 2016, which is a pre-requisite for processing the case by the District Magistrate, Jammu and for making recommendations to the Licensing Authority.

10. Now, therefore, in due deference to the order dated 02.08.2023 passed by the Hon'ble High Court of J&K & Ladakh at Jammu in WP(C) No. 1964/2023 titled M/s Hem Raj Arms Dealer vs. UT of J&K & another, the claim of the petitioner for issuance of the printed license in his favour having been considered, is found

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devoid of merit, inter-alia, for the position explained hereinabove and accordingly, rejected. However, the case of the petitioner for grant of Arms and Ammunition Dealer's Licence will be considered on completion of all the formalities by the petitioner, as required under the extant Rules and on the basis of the recommendations from the District Magistrate, Jammu.

By order of the Government of Jammu and Kashmir.

Sd/-

(Raj Kumar Goyal) IAS
Financial Commissioner/
Additional Chief Secretary

No: HOME-ARMS/190/2023 (CC: 7253131)

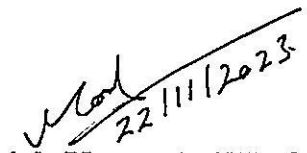
Dated: 22 .11.2023

Copy to the:

1. Director General of Police, J&K.
2. Principal Secretary to the Hon'ble Lieutenant Governor, J&K.
3. Director, Information and Public Relations, J&K.
4. Director, Archives, Archaeology and Museums, J&K.
5. District Magistrate, Jammu.
6. Private Secretary to the Chief Secretary, J&K.
7. Private Secretary to the Financial Commissioner (ACS) Home Department.
8. Hem Raj, the Proprietor of M/S Hem Raj Arms Dealer.
9. In charge Website, Home Department.
10. Government Order file/Stock file.

Copy also to the:

Joint Secretary (JKL), Ministry of Home Affairs, Government of India, New Delhi.


22/11/2023
(Monish Kumar), JKAS

Under Secretary to the Government